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COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 8

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO
ANY FORMS OF DETENTION OR IMPRISONMENT

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[6 March 1997]

1. Torture continues to be a serious, widespread problem in Turkey. It is neither spontaneous nor rogue. While criminal suspects also face maltreatment at the hands of the regular police, Turkey's anti-terror police have methodically incorporated torture in their daily operations, utilizing special equipment, including tables fitted with straps, high pressure hoses, racks for suspending suspects by their arms, and instruments to apply electric shock. This unit deals with political offences, both violent and non-violent. Usually security detainees in such cases are connected with the conflict in south-eastern Turkey or with far-left groups. Under the law, they can be held for 15 days without access to a lawyer or arraignment before a magistrate; under the State of Emergency Law, which is at present in force in nine provinces in south-eastern Turkey, that period is doubled. The Government that was in power in Turkey from 1991 to 1995 took some steps, albeit imperfect, to address the problem. These initiatives, however, largely failed. Legal proceedings are rarely instituted against police for alleged abuse and torture, and when trials are launched, they drag on. Police are rarely arrested when they face criminal charges. All of this leads to a climate of impunity. In November 1996, the current coalition Government submitted a bill to reduce detention periods for security detainees from a maximum of 30 days to 10. This initiative has not been passed into law.

2. Human Rights Watch calls on the Commission on Human Rights to condemn torture in Turkey and to call on the Government of Turkey to disband the anti-terror police units and more aggressively prosecute abusive police. Further, the Commission should insist that detention periods for security detainees are reduced and that they are guaranteed access to counsel.

3. Maintenance of the draconian emergency regime in Northern Ireland continues severely to undermine respect for civil liberties. Expansive stop, search and arrest powers, restrictions on access to legal counsel, juryless Diplock courts, the erosion of the right to silence, and seven-day detention without charge contravene essential due-process guarantees. A number of international bodies, particularly the European Committee for the Prevention of Torture, have found that persons held under the emergency laws are vulnerable to both physical and psychological ill-treatment in detention. Moreover, the European Court of Human Rights has found the United Kingdom in violation of its obligations under the European Convention for the seven-day detention without charge provision.

4. Controversy over marches by loyalist fraternal orders through nationalist communities in the summer of 1996 gave rise to the worst violence Northern Ireland has experienced since the early 1980s. The police reversal of an earlier decision to re-route a march at Drumcree away from a nationalist area under threats of violence from loyalist marchers resulted in the widespread breakdown of law and order. Of particular concern was the subsequent disproportionate and indiscriminate use of over 5,000 plastic bullets against the nationalist community, which gave rise to allegations of excessive and sectarian use of force by the police. Human Rights Watch joins the renewed call for a ban on plastic bullets, which have killed 14 people in Northern Ireland and caused hundreds of severe injuries over the past 25 years.

5. Human Rights Watch recommends that the Special Rapporteur on human rights and states of emergency be given a specific mandate from the Commission on Human Rights to undertake an intensive investigation of the 75-year-old public emergency in Northern Ireland and to make recommendations to the Commission at its next session regarding the restoration of essential human rights guarantees in the United Kingdom.

6. Human Rights Watch remains deeply concerned about the prevalence of sexual abuse and degrading treatment by prison staff of women incarcerated in State prisons in the United States. Official avenues for investigating and remedying sexual abuse, where they exist, often do not work, and correctional employees continue to engage in abuse because they believe they can get away with it. Despite documentation of and public attention to the problem, state and federal officials, in some instances, have dismissed allegations of abuse as unfounded, and routinely have failed to implement reforms to prevent and remedy the sexual abuse of women in prison. Moreover, prison staff have retaliated against women prisoners who contributed to human rights reporting on the problem of sexual abuse. Recalcitrant state-level officials have refused to take the most basic steps to prevent abuse: many states fail to criminalize sexual contact between prison staff and prisoners; officials do not discipline prison staff responsible for sexual misconduct, instead leaving them in daily contact with prisoners; and prison authorities deny independent

monitors access to prisons. Although the United States federal Government has emphasized its concern about sexual abuse of women prisoners, its monitoring of prison abuses is inadequate and undersupported. Further, laws adopted in 1996 severely limit prisoners' ability to challenge abusive prison conditions in court. Human Rights Watch urges the Commission to call on the United States to ensure that (i) sexual contact between prison staff and prisoners is expressly criminalized; (ii) all officers responsible for sexual misconduct are disciplined; (iii) prison staff are trained to avoid sexual misconduct with prisoners; (iv) prisoners are guaranteed access to effective means for reporting sexual misconduct; (v) independent monitors have access to prisons; and (vi) sexual misconduct by prison staff is investigated and, where appropriate, prosecuted.

7. Human Rights Watch is concerned that Israel is holding at least 21 Lebanese in extended periods of detention, either without charge or trial or long beyond the expiration of their sentences. Among the Lebanese who have never been charged or tried are two prominent Shi'a leaders, Sheikh Abd al-Karim Obeid and Mustafa al-Dirani, who were abducted from their homes in 1989 and 1994 respectively, and have since been held incommunicado. Officials of past Israeli governments have conditioned the release of these two leaders on the release of, or the acquisition of information about, Israeli service persons missing in Lebanon (MIAs). Israeli officials also indicated more generally that the release of other Lebanese detainees was linked to the issue of Israeli MIAs. In holding detainees in this fashion, Israel has failed to place them under any regime of legal protection, either under humanitarian or international human rights law. Moreover, the transport by Israel of these detainees across international borders has complicated the issue of family visits, which are at best infrequent and in some cases non-existent.

8. The prohibition of hostage-taking is absolute and cannot be justified by the actions of other parties to a conflict. Insofar as Israel conditions the release of Lebanese detainees on securing information from third parties about Israeli MIAs, those detainees are being held as hostages. Human Rights Watch calls on the Commission to urge their unconditional release or that they be charged immediately with recognizable criminal offences and afforded a trial with full due-process guarantees.

9. Where a detainee's family visits have been rendered difficult or impossible owing to restrictions on travel between Israel and Lebanon, the Commission should encourage the Governments of Israel and Lebanon to cooperate in facilitating these visits. Israel must also end the incommunicado detention of detainees, including Obeid and al-Dirani, and allow visits to them by relatives, lawyers, and/or non-governmental organizations.

10. Lebanese citizens and Palestinian refugees continue to be apprehended by the Syrian security forces in Lebanon and transferred to Syria for imprisonment without charge or trial. The Lebanese security forces have sometimes participated in the handover of these persons to the Syrians and, according to testimony provided by former prisoners in 1996, some have been tortured in Lebanon while in Syrian custody prior to transfer to Syria. While some families have been permitted visits in Syria, others do not know where their relatives are being held or if they are dead or alive.

11. We call on the Commission to request that the Government of Syria disclose publicly the names of all non-Syrians currently in custody in Syria, including the names of the prisons and detention facilities where they are being held, and permit visits by family members and lawyers without delay. The Commission should also urge that the Syrian judicial authorities determine, on a case-by-case basis, if these individuals have been subjected to unlawful arrest or detention. In such cases individuals should be released immediately. Where individuals have been lawfully arrested and detained in Syria, they should be promptly charged with recognizable criminal offences and afforded a trial with full due-process guarantees, or released.

12. Human Rights Watch wishes to comment on the question raised by Commission on Human Rights resolution 1996/28 regarding the distinction between detention and imprisonment, as it pertains to the mandate of the Working Group on Arbitrary Detention. The original mandate of the Working Group is set forth with reference to a number of human rights instruments. Pertinent international human rights instruments use "detention" and "imprisonment" co-jointly. The Universal Declaration on Human Rights guarantees freedom from arbitrary arrest, detention or exile and to a fair and public hearing by an independent and impartial tribunal in determining any criminal charges. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the only international instrument that establishes a distinction between these two terms, clearly expresses the intention of the General Assembly that deprivation of liberty both pre- and post-trial be subject to human rights standards. The fact that this document is explicitly a basis for the Working Group's mandate underscores the need for the scrutiny not to stop once a national court has validated what may otherwise be an arbitrary deprivation of freedom.

13. Nearly half of the Working Group's decisions adopted in the past five years pertained to cases of persons who have been sentenced. If the Working Group were to limit its area of concern only to cases of detention before a judicial decision, this would lead to a form of selectivity. Human Rights Watch firmly believes that the concept of arbitrary detention applied by the Working Group must continue to include sentences decided by tribunals that are not independent or impartial.

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COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 9

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[6 March 1997]

Mass exoduses in Africa

1. Faced with the increasing complexity of refugee and displaced situations in Africa - spreading regional conflicts, mixed refugee/combatant populations, large weapons flows, violence, and forced conscription in refugee camps - the international community appears to be retreating from the protection of refugee rights. At the same time, there is a waning receptivity among African Governments to host the massive refugee flows. The Office of the United Nations High Commissioner for Refugees (UNHCR) and African Governments must respect the rights of refugees, displaced persons and asylum seekers, and reaffirm their commitment to their fundamental right to non-refoulement. Despite the inherent difficulties, the international community must be prepared to institute screening processes to separate refugees from human rights violators and combatants. The United Nations must strengthen its framework for the protection of the internally displaced, and ensure that its programmes, which are currently run on an ad hoc basis, are not manipulated by Governments.

2. Violence and displacement have escalated in the Great Lakes region since the 1994 Rwandan genocide. The struggles for political control in Rwanda, Burundi and Zaire have become integrally linked, each able to destabilize prospects for peace in the other. The international community has been unwilling to devote the necessary political or financial resources for a regional solution, responding only at the peak of the region's emergency crises. UNHCR has watched the forced repatriation of Rwandan and Burundian refugees with little protest. The return of these refugees has not been followed with the necessary monitoring and assistance to ensure permanent reintegration. Following the mass return of Rwandan refugees in late 1996, those remaining in the United Republic of Tanzania and Zaire, and the Zairian internally displaced, have been all but forgotten. The international community must end the refoulement of refugees; assist the remaining refugee and displaced populations; institute screening procedures to separate killers from refugees; and make a sustained commitment to political solutions in the region.

3. In the Sudan, government troops and militias have caused massive displacement and death for years by targeting southern and now eastern civilians in asset-stripping raids. The rebel Sudan People's Liberation Army (SPLA) has been responsible for similar raids. The Government has blocked United Nations access to hundreds of thousands of needy displaced for counter-insurgency reasons. The United Nations should insist on access to areas of need, including the Nuba Mountains. It should resist government manoeuvres to transfer the United Nations Operation Lifeline Sudan (Southern Sector) to Government-controlled territory; that transfer would politicize and cripple the programme, causing thousands of internally displaced persons to die or flee. The United Nations must also take steps to prevent SPLA forcibly recruiting children, particularly from Kenyan and Ethiopian refugee camps.

4. In Kenya, thousands remain internally displaced as a result of State-sponsored "ethnic" violence unleashed against ethnic groups associated with the political opposition after the Government was forced to concede to a multi-party system in 1991. Although some have returned, many remain displaced fearing violence or because their land is illegally occupied. Government officials have consistently harassed the displaced, including through forced dispersals, while perpetrators have enjoyed complete impunity. A UNDP programme for the displaced ended after two years in 1995, largely due to government obstruction. Abandoned by the international community and their Government, this displaced population is destined to become a permanently disenfranchised underclass. The Government must provide security for the displaced to return, reverse illegal land transactions and punish the perpetrators.

5. In 1995 South Africa ratified the Convention relating to the Status of Refugees and discussion for new legislation to provide for these commitments is currently under way. Large numbers displaced by conflict or seeking a better life are migrating to South Africa, and one result has been an upsurge in xenophobia. Concerns surrounding the current treatment of refugees include the lack of due process in processing asylum applications; police brutality and corruption; and the failure of the police to protect non-citizens from violence by the local population. Given the public feeling against foreigners, there is a danger that the Government might give way to demands

for restrictive controls on immigration and asylum which violate international law. The rights of asylum applicants, refugees and non-citizens must be respected by South Africa.

Accountability in the former Yugoslavia

6. Accountability for human rights abuses is crucial for the establishment of the rule of law in Bosnia and Herzegovina and for the implementation of all aspects of the Dayton peace agreement. However, local authorities have failed to investigate and prosecute attacks on ethnic minorities - including arbitrary detention, beatings by police resulting in serious injuries and death, widespread evictions, attacks upon returnees, destruction of housing - that have occurred since the signing of the agreement. The police are widely believed to be responsible for the majority of human rights violations - either through acts of commission or omission.

7. While many local courts are functioning, the civil and criminal justice systems continue to serve as instruments of the main political parties. When a judge does rule in the interest of injured parties, the decision is rarely honoured by the police and local authorities, and there is evidence of collusion between the courts and the local police, housing and other authorities in undermining civil protections for minorities.

8. Those who remain in areas where they are not the ethnic majority or who are would-be returnees have little confidence that they can live in majority communities without fear. Even if their physical security were not immediately threatened, discrimination in housing, employment, health care and political participation make a normal existence impossible.

9. The Commission on Human Rights should make accountability for police and government officials a top priority. We urge the Commission to call on the Office of the High Representative, the International Police Task Force, and the Organization for Security and Cooperation in Europe to devise a plan to sanction local and entity Governments which do not hold abusive officials accountable. This combined effort must ensure compliance with the human rights standards established by the Dayton agreement.

Sexual violence

10. Despite evidence of widespread sexual violence against women in countries around the world, many Governments are failing to investigate and prosecute these crimes vigorously. Women of every age, race, nationality, religion and ethnicity are sexually assaulted, often by men they know in their own communities, and Governments respond with indifference. Notwithstanding statutory prohibitions against rape, Governments fail adequately to monitor, investigate and punish crimes against women. Women must overcome flawed investigatory procedures and significant official obstacles to justice, including police hostility to their complaints, pervasive biases held by police, prosecutors, and judges that women are to blame for such attacks or that sex crimes are serious only if committed against chaste women.

11. In the Russian Federation, police often refuse to accept complaints from survivors of sexual violence and delay collection of vital medical evidence,

thereby preventing the successful prosecution of complaints. Invasive police investigations into rape survivors' sexual history violate women's privacy rights and discourage women from pursuing complaints. Women also are prevented from obtaining forensic evidence of rape because police neglect to inform them of this necessary step. In Peru, survivors of rape face a judicial system that ill serves them. Rapists can be absolved of their crimes by marrying their victims. Survivors of rape are obliged to pay for examinations by State forensic doctors or see their cases dropped. State forensic doctors often perform cursory, incomplete examinations that prove insufficient to establish the crime. In South Africa, the police and courts are unsympathetic to rape survivors, and many in senior positions remain hostile to reform efforts. Rape and sexual assault cases are poorly investigated; women are treated by law enforcement as if they are on trial rather than the accused, and the great majority of cases either fail to reach trial or end in acquittals.

12. International human rights law obliges Governments to protect all citizens without discrimination from human rights abuses; to investigate and remedy violations of citizens' rights by private actors; and to refrain from committing human rights violations directly. Yet, in many countries, law enforcement authorities do not seriously pursue crimes of sexual violence and allow gender bias to compromise the delivery of justice. Many laws treat rape and other sexual assaults as crimes against honour or dignity rather than as attacks on women's physical integrity. Some countries' laws exempt rape in marriage from criminal sanction or exculpate rapists who marry their victims and thus minimize the harm to their reputations.

13. Human Rights Watch calls on the Commission on Human Rights to urge Governments to criminalize rape and other sexual assaults explicitly as crimes against the person; to repeal statutes that allow rapists to marry their victims to avoid criminal penalties or that exempt marital rape from punishment; to vigorously investigate and prosecute sexual violence; to standardize training of forensic doctors and of collection of forensic evidence of sexual violence; to provide counselling and medical services related to sexual violence; and to ensure training for judicial and law enforcement agents to eliminate gender bias from the investigation and prosecution of sexual violence.

14. The United Nations should initiate and promote efforts to end sexual violence and to guarantee women access to justice in all its human rights activities, including renewing the mandate of and providing sufficient resources to the Special Rapporteur on violence against women. The Commission should also provide technical assistance to Governments on ways to reform statutory discrimination and to improve the administration of justice with regard to sexual violence against women. Finally, we recommend that the Commission urge the Commission on Crime Prevention and Criminal Justice to develop procedural and evidentiary standards for investigating violence against women.

Human rights institutions in Hong Kong

15. Human Rights Watch is very concerned about the status of the national institutions for the promotion and protection of human rights in Hong Kong

after 1 July 1997, when the British colony formally becomes a Special Administrative Region of China. We are alarmed by the fact that on 22 February 1997, the Standing Committee of the National People's Congress, the Chinese parliament, adopted a decision to abolish or amend 24 Hong Kong laws effective 1 July, including key sections of the territory's Bill of Rights. The Commission should urge the United Kingdom Government to establish an independent human rights commission in Hong Kong before the transfer of sovereignty to receive complaints regarding human rights abuses, to promote human rights awareness and education, and to monitor the state of human rights in Hong Kong.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[6 March 1997]

1. During the past year, Human Rights Watch/Helsinki has continued to monitor closely, through its offices in the region, the human rights situation in Central Asia and wishes to call the Commission's attention to three countries in particular.

Tajikistan

2. Renewed fighting between government and opposition forces in the Tavil-Dara and Gharm Valley regions, politically motivated assassinations and disappearances, and increasingly fragile conditions for humanitarian aid workers added up to Tajikistan's most abusive year since 1992. Continued hostilities displaced an additional 23,000 people by the end of December 1996, exposing them to abuses by government security forces and opposition groups. Landmines in the Tavil-Dara region continued to impede the safe return of the internally displaced to that area, and repatriation of the approximately 20,000 refugees remaining in northern refugee camps in Afghanistan was reportedly impeded by threats and intimidation from opposition camp leaders.

3. The Government continued severely to restrict the activities of those who expressed disagreement with official policies, and virtually controlled the print, broadcast and electronic media. The three opposition parties remained suspended, although one new political party was granted registration in 1996. Despite the provision of food and medical supplies by the ICRC to some prisons, conditions in general remained appalling.

4. In December 1996 and February 1997, an apparently rogue rebel group took hostage Russian journalists and representatives of the ICRC, UNHCR and the United Nations Mission of Observers in Tajikistan (UNMOT), underscoring the almost total lack of government control and authority in Tajikistan. Unharmed, they were still unable to return to the capital as of this writing.

Turkmenistan

5. The autocratic rule of President Saparmurad Niyazov made 1996 another year of relentless oppression of almost all civil and political rights in Turkmenistan. The media are tightly controlled and required to slavishly praise the President and his policies; the last public rally took place in July 1995, and several of the participants remain in jail on unclear charges; there is no political opposition within the country; and political dissidents have been arrested on apparently falsified charges or committed to psychiatric hospitals without apparent medical necessity, making Turkmenistan the only Soviet successor State known to continue this barbaric practice. It is indicative that the only public shows of dissent in 1996 took place in prison, in the form of two prison riots reportedly to protest inhuman conditions. The high degree of repression kept information about abuses minimal again in 1996, which limited international criticism of specific abusive acts and helped the Government operate in an atmosphere of impunity.

Uzbekistan

6. Despite some tentative attempts at reform in 1996, primarily targeting the international community's perception of human rights protections, almost all civil and political freedoms are curtailed or denied by Uzbekistan's authoritarian regime. Security forces akin to the previous, Soviet regime's KGB and a court system that often honours political or partisan pressure over the rule of law maintain firm control over the media, individual free speech, and the right to practise religion independent of government oversight, among other fundamental freedoms. Perceived threats to local or presidential authority are routinely punished. The Government has funded and overseen the formation of "alternative" political parties to create the appearance of a multi-party system, but continues to ban organic opposition groups and their publications and to detain and arrest their adherents. The Government has displayed a similar intolerance for uncontrolled domestic human rights monitoring. Most distressing, the Government of Uzbekistan has used the thaw in relations with international bodies and individual Governments to mask a return to some repressive practices, such as a kidnapping and several illegal evictions of dissidents since September 1996.

7. Human Rights Watch calls on the Commission on Human Rights formally to express concern about the repressive practices in the three Central Asian republics. We also urge the Working Group on Arbitrary Detention, the Special

Rapporteur on freedom of opinion and expression and the Special Rapporteur on torture to conduct investigations and report to the fifty-fourth session of the Commission on Human Rights.

Bahrain

8. Bahrain's human rights situation has deteriorated markedly over the past five years, and especially since the outbreak of civil unrest in December 1994. There is a pattern of arbitrary and prolonged detention without charge or access to lawyers, abusive treatment of detainees, including cases of torture, and State Security Court trials that violate minimal international due process standards. And, in violation of international law and its own Constitution, Bahrain continues to forcibly expel from the country and prevent the return of citizens who have expressed unwelcome political views. This is carried out summarily and without recourse to any judicial or administrative procedure. More than 500 Bahrainis are currently living in forced exile, some for nearly two decades.

9. Bahrain's majority Shi'as are disproportionately represented among the victims of many of these abuses. They are also subject to a pattern of discrimination in public employment and access to education. All Bahrainis, however, are routinely denied the rights to freedom of expression and access to information, freedom of association and assembly, and the right to take part in the conduct of public affairs, directly or through freely chosen representatives. Numerous professionals have been fired from their jobs and blacklisted from other employment for refusing to withdraw their names from petitions to the Amir advocating restoration of the parliament, free elections, and release of prisoners held for their political beliefs. Eight prominent Bahraini religious and community leaders have been held without charge or trial since January 1996, most of them incommunicado.

10. Human Rights Watch urges the Commission on Human Rights to express concern publicly about Bahrain's repressive practices, and to urge an end to the illegal and unusual practice of expelling its own citizens for their suspected political views or activities. We also urge the Working Group on Arbitrary Detention and the Special Rapporteur on freedom of opinion and expression to investigate conditions in Bahrain and report to the Commission on Human Rights at its fifty-fourth session.

Colombia

11. The human rights situation in Colombia continues to be extremely serious. The Government has yet to take aggressive measures to address the root causes of abuses, including ending the military's covert alliance with paramilitary groups and addressing impunity, particularly in the military justice system.

12. National human rights groups recorded an average of six political killings a day relatively constantly since 1988. Human rights monitors are frequent targets. Three monitors were killed in 1996, including Josué Giraldo, president of the Meta Civic Committee for Human Rights.

13. An estimated 65 per cent of registered acts of political violence are attributed to the armed forces and their paramilitary partners. An estimated 35 per cent are attributed to guerrillas, who have amassed a record of killing political opponents, kidnapping, attacking civilian targets, and using landmines indiscriminately.

14. A disturbing recent development is the increase in paramilitary activity in league with military operations. In just one three-month period in 1996, paramilitaries were believed to be responsible for at least 181 political killings and 43 forced disappearances. Paramilitaries were also implicated in forced displacement, which continued at high levels.

15. The response of the Government to pressure to improve the protection of human rights has been poor. Instead, there is a clear trend to cede broad powers to the military through the declaration of states of "interior commotion" and "special public order zones". In areas so designated, the security forces are authorized to limit travel and carry out searches and arrests without warrants.

16. Impunity, particularly in the military courts, remains total. For example, despite convincing evidence that Gen. (ret.) Farouk Yanine Díaz organized and deployed paramilitary groups against civilians in the 1980s, the Superior Judicial Council decided that such activity was part of his military service and should be judged by a military court.

17. We recommend that the Commission work to strengthen the field office in Colombia, setting as its priority an immediate review of the deteriorating human rights situation. Information should be promptly released publicly, including an evaluation of the Colombian Government's progress in implementing the many recommendations made to it by the United Nations representatives who have visited the country.

Nigeria

18. Last year, the Commission on Human Rights mandated the Special Rapporteurs on the independence of judges and lawyers and on extrajudicial, summary or arbitrary executions to prepare an interim report on Nigeria for the General Assembly and a final report for the 1997 meeting of the Commission. The Nigerian Government has failed to cooperate with the Special Rapporteurs and has displayed no signs of attempting to implement the recommendations made by them in their interim report to the General Assembly, those made by the Secretary-General's fact-finding team which visited Nigeria in April 1996, or those made by the Human Rights Committee in considering Nigeria's first report on the International Covenant on Civil and Political Rights last year.

19. In light of the lack of improvement of Nigeria's human rights record and failure to comply with international bodies, Human Rights Watch calls on the Commission on Human Rights to adopt a resolution strongly critical of violations of human rights in Nigeria and to appoint a special rapporteur on Nigeria to monitor the situation in that country until it has been returned to rule by a civilian government following free and fair elections.

Hong Kong

20. Human Rights Watch is very concerned about the human rights situation in Hong Kong after 1 July 1997, when the British colony formally becomes a Special Administrative Region of China. The Chinese Government has already sent several disturbing signals. It decided to disband the elected Legislative Council on 1 July and appoint a provisional legislature in its place. Chinese officials have also announced that certain topics will be off limits to public discussion in Hong Kong after 1 July, such as Taiwan or Tibetan independence. All media in Hong Kong have been banned from covering discussions of the Preparatory Committee, the 150-person body handpicked by China to guide the reversion process. Hong Kong-based journalists have been arrested and detained while covering events in China. The Commission should closely monitor upcoming events in Hong Kong and should request the Secretary-General to prepare a status report on human rights in Hong Kong to be presented to the fifty-fourth session of the Commission on Human Rights.

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COMMISSION ON HUMAN RIGHTS
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IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[6 March 1997]

1. Human Rights Watch wishes to alert the Commission on Human Rights to serious, officially sanctioned, racially and ethnically motivated abuse, perpetrated in the Russian Federation, Croatia and Yugoslavia.

The Russian Federation

2. Law enforcement authorities in Moscow, and other areas experiencing significant immigration such as the southern districts of Krasnodar and Stavropol, not only fail to fight racial discrimination but are conducting a campaign of harassment, job and housing discrimination and brutality against dark-skinned people. State-sponsored abuse documented by Human Rights Watch/Helsinki includes restriction of freedom of movement, arbitrary detention, arbitrary house searches and invasion of privacy, extortion, and physical assault. Since at least 1993, police abuse, combined with the growing xenophobic mood in Russia, has produced a brutal, State-sponsored campaign against dark-skinned people.

3. The law enforcement agencies of the Russian Federation have systematically targeted non-Slavic peoples - particularly dark-skinned people or people of Asian or South Asian descent - often by violent enforcement of laws that blatantly discriminate against non-Slavs such as the notorious resident permit (propiska) system, and by ignoring existing laws that provide for non-discrimination. The public fomenting of racist attitudes by leading political figures, such as Mayor Luzhkov of Moscow, has served to exacerbate an already grossly racist attitude by the authorities. This discrimination further extends to refugees and asylum-seekers in major Russian cities by denying them even the most basic rights, such as freedom of movement, solely on the basis of their ethnicity.

4. Law enforcement agents in Moscow routinely detain, intimidate, extort money from and beat people of colour, mainly people from the Caucasus, Africa, Asia and Central Asia, to the extent that numerous victims have been forced to develop "survival behaviour" to minimize the risk of abuse: they shave cleanly and regularly so as to look as light-skinned as possible; ride in private cars rather than use public transportation; locate the police visually at all times and walk as far from them as possible; pay the police right away when asked, whether they are paying a fine or a bribe; and never resist, fight back, or submit complaints to the police or otherwise publicize the abuse against themselves. For some, the only survival tactic is to leave Moscow; countless people have left the city because they could no longer tolerate the harassment, humiliation and monetary loss. Many others do not dare leave their homes for months at a time because they fear harassment and arrest and cannot afford to pay the police for alleged violations or bribes.

5. Despite the 1991 court decision that rendered the propiska regime illegal, the Government has made little if any effort to discontinue it in major cities. All new arrivals must pay for a temporary permit and register with the authorities or be subject to fines and deportation. Russian Federation police enforce this law in an entirely prejudicial manner against those with dark skin, including foreign students, workers, refugees and asylum-seekers. The police regularly detain people of colour in mass sweeps at market places and refugee hostels, more brutally and punitively in the wake of domestic unrest, such as during the war in Chechnya and the Budyonnovsk hostage crisis, both of which involved dark-skinned people and violence against Russians.

6. Rather than seeking to curb racially motivated violence rampant in Moscow since 1993, the Moscow city government has strengthened police discretion to verify passports and propiskas, which it enforces overwhelmingly against dark-skinned people. In the two days following the 10 and 12 July 1996 bombing of Moscow trolley buses, police detained 5,770 individuals for violating city propiska and registration requirements. This extraordinarily high number suggests that many of the detentions were wholly arbitrary. Moreover, Mayor Yuri Luzhkov's televised remarks, expounding a theory of Chechen involvement only two hours after the crime in which he "warn[ed] the entire Chechen diaspora" and promised to rid the city of "bums and organizations ... connected to systems of southern structures", and set the tone for "Operation Cleanse" - raids on markets, dormitories and the like. The beating of dozens of Azerbaijanis during

market raids caused at least two to be hospitalized during this period. In August 1996, Mayor Luzhkov declared that "crime in Moscow bears no ethnic factor", but failed to note that crime-fighting indeed does.

7. Human Rights Watch urges the Special Rapporteur on contemporary forms of racism to investigate the abusive situation in the Russian Federation and to report to the Commission at its next session.

Croatia and Yugoslavia

8. Ethnic minorities in regions of Yugoslavia and Croatia continue to face widespread discrimination, harassment and police brutality. Although there has been a general reduction in the routine, officially sanctioned violence against minority civilians since the end of the war, insufficient or non-existent governmental efforts to protect minorities from abuse and to hold perpetrators accountable for their conduct has meant that many continue to live in fear. Fear of imminent eviction from their homes, censorship of minority views in national publications, and the perception that abuses can be committed against minorities with impunity create a widespread sense of insecurity.

9. Despite considerable attention from the international community, ethnic Albanians in Kosovo province, ethnic Hungarians in Vojvodina, and Muslims in Sandzak continue to face serious human rights abuses which have yet to be remedied by the Government of Yugoslavia.

10. In Kosovo, officials citing terrorism or secessionism have given Serbian police free rein to harass, arbitrarily detain and beat ethnic Albanians without fear of reprisal. In 1995/96, 19 ethnic Albanians were killed by police who apparently never faced criminal charges. Police attacks on ethnic Albanians commonly take place in public or in front of family members, further contributing to a sense of insecurity and fear among the whole Albanian community. There is also evidence of wide-scale abuse and torture of detainees by the police.

11. The systematic violation of the rights of ethnic Albanians to free speech and association has also continued unabated. Community activists are routinely targeted for physical harassment and arrested without warrant, and police frequently confiscate the office equipment from the headquarters of ethnic Albanian organizations.

12. These tactics, combined with the deliberate economic and social marginalization of Albanians, have forced the emigration of an estimated 350,000 ethnic Albanians from the province. While Albanians are being forced to leave, the government of President Milosevic has provided incentives to and encouraged the settlement of Serbs in the region, including 16,000 Serb refugees from Bosnia and Croatia.

13. Overtones of the same policy are present with regard to ethnic Hungarians in Vojvodina and Muslims in Sandzak. The Yugoslav Government's refusal to make reparations for the serious abuses committed between 1991 and 1995 against non-Serb civilians and their property - most notably the displacement of many non-Serbs to provide housing for Serb refugees - has

left minorities with a sense of insecurity. Without governmental efforts towards review or restitution, many minorities continue to flee the region out of fear that similar waves of xenophobic violence could recur at any time. In fact, there exists considerable evidence of governmental strategies to resettle Serb refugees in Vojvodina and Sandzak with the aim of skewing the ethnic composition and marginalizing the minority communities there.

14. In Croatia, those responsible for the 1995 "Operation Storm" in the Krajina enjoy complete impunity. The Government refuses to investigate most crimes against the non-Croat population. The Croatian Army's offensive to recapture the Krajina region and its aftermath caused the displacement of hundreds of thousands of Serbs from Croatia, the death of more than 200 civilians - including summary executions of elderly and infirm Serbs who remained behind - and the wholesale destruction of Serbian villages and property by Croatian government forces. Estimates of Serbs still reported "missing" from the region range to over 1,600. Not only has the Croatian Government failed to protect Serbs who remain in the Krajina and to bring to justice those responsible for serious abuses against them, unnecessary bureaucratic obstacles and delays prevent most ethnic Serbs from returning to their homes.

15. In view of the Croatian Government's continuing refusal to hold individuals accountable for crimes committed in Krajina, Serbs are understandably apprehensive about the impending July transfer of Eastern Slavonia from Serb to Croatian control. The Croatian Government's January letter of intent, which outlines a plan for the peaceful reintegration of the territory, is a positive step towards allaying the fears of the Serb community; however, close supervision of escalating extremist violence in the area is necessary. A mass exodus of Serbs into the Bosnian Serb-controlled areas of Bosnia remains a possibility so long as Serbs fear mistreatment: Croatia must quickly resolve problems surrounding the dissemination and processing of citizenship papers and pensions, and encourage the development of local political parties, especially in view of municipal elections scheduled for April.

16. Human Rights Watch urges the Commission on Human Rights to include, in its resolution on human rights in the former Yugoslavia, a condemnation of the practices described above. We also support the recommendation of the Special Rapporteur on human rights in the former Yugoslavia to establish a field office of the Centre for Human Rights in Kosovo.

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STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[6 March 1997]

GE.97-11046 (E)

Hong Kong

1. Human Rights Watch is very concerned about the status of the International Covenant on Civil and Political Rights (ICCPR) in Hong Kong after 1 July 1997, when the British colony formally becomes a Special Administrative Region (SAR) of China. The 1984 Sino-British Joint Declaration stipulated that the protections of the ICCPR would continue to extend to Hong Kong after 1997, even though China is not a party to it. Subsequently, however, China indicated that even though it intends to honour some 200 international treaties, it would exclude specifically the ICCPR and would not report to the Human Rights Committee on how the provisions of the treaty were being respected in Hong Kong.

2. Human Rights Watch is also alarmed by the fact that on 22 February 1997, the Standing Committee of the National People's Congress, the Chinese parliament, adopted a decision to abolish or amend 24 Hong Kong laws effective 1 July, including key sections of the territory's Bill of Rights. (The Hong Kong Legislative Council adopted the Bill of Rights in 1991 in an effort to ensure that the provisions of the ICCPR remain in force after the reversion to Chinese sovereignty.)

3. Human Rights Watch is concerned that the Government of China has already begun to violate provisions of the ICCPR even before the Special Administrative Region comes into being. The best-known example is China's decision to disband the elected Legislative Council on 1 July and appoint a provisional legislature - which is already functioning - in its place, a clear violation of article 25 of the ICCPR which states that every citizen should be able to take part in public affairs through freely chosen representatives.

4. The right to freedom of expression is also in jeopardy. Chinese officials have announced that certain topics will be off limits for public discussion in Hong Kong after 1 July, such as Taiwan or Tibetan independence. All the media in Hong Kong have been banned from covering discussions of the Preparatory Committee, the 150-person body handpicked by China to guide the reversion process. Hong Kong-based journalists have been arrested and detained while covering events in China.

5. The extent to which freedom of association is respected after 1 July will need strict monitoring. Human Rights Watch/Asia shares the concern of many local, regional and international non-governmental organizations regarding the application of article 23 of the Basic Law, the document that will serve as the SAR constitution. This article, which concerns the prohibition of "any act of treason, secession, sedition, [and] subversion against the Central People's Government, or the theft of State secrets" is widely regarded as the vehicle by which groups or individuals may encounter restrictions or persecution for exercising their civil and political rights in post-1997 Hong Kong.

6. We call on the Commission to encourage the United Kingdom to publicly declare its intention of regarding China's failure to report to the United Nations Human Rights Committee on the application of the ICCPR in Hong Kong as a violation of its treaty obligation under the 1984 Joint Declaration and to consider the establishment of a provisional legislature as

a violation of article 25 of the ICCPR and a breach of the Joint Declaration. The Commission should also urge the Government of the United Kingdom to establish an independent human rights commission in Hong Kong before the transfer of sovereignty to receive complaints regarding human rights abuses, to promote human rights awareness and education, and to monitor the state of human rights in Hong Kong.

7. We call on the Commission to urge the Government of China to ratify the ICCPR and the International Covenant on Economic, Social and Cultural Rights and to respect fully the provisions of both Covenants in Hong Kong after 1 July.

Peru

8. The Human Rights Committee considered Peru in 1996 and in its observations in July, and again, in November, expressed serious concerns about numerous violations of the International Covenant on Civil and Political Rights (ICCPR) in that country. Human Rights Watch wishes to highlight a few areas of violation of particular concern to our organization.

9. Impunity for human rights violators and the systematic denial of due process for those tried by so-called faceless courts in Peru violate Peru's international obligations under ICCPR and other international treaties.

10. While State agents responsible for torture, forced disappearance and extrajudicial execution are protected from prosecution by a sweeping 1995 amnesty law, civilians accused of crimes against the State face the almost complete denial of due process guarantees in the faceless court system created by Peru's 1992 anti-terrorist decrees. The use of faceless courts, both in military and civilian trials, violates the right to a fair and public hearing by a competent, independent and impartial tribunal, as guaranteed by article 14 of the ICCPR. Faceless court proceedings are conducted in secret by judges and prosecutors whose identity is never revealed, making it impossible to guarantee their independence and impartiality. Terrorism cases are tried by civilian faceless courts, whereas treason cases, considered to be an aggravated form of terrorism, are tried by military faceless courts. In its Preliminary Observations on the report submitted by Peru under article 40 of the ICCPR, the Human Rights Committee found that the use of military courts to try civilians may in itself violate article 14, as persons accused of treason are being tried by the same military force that detained and charged them. We concur with the Committee that Peru should abolish the use of faceless courts without further delay.

11. Peru's use of catch-all definitions of terrorism also conflicts with its obligations under the ICCPR. As the Committee stated in its Preliminary Observations, Peru's domestic legislation contains a very broad definition of terrorism under which innocent persons have been and remain detained. Peru's facilitation of arbitrary detention violates article 9, which guarantees the right to liberty and security of person. Because it also criminalizes non-violent acts, such as "apologia del terrorismo" (excusing the acts of terrorists) which may involve acts of expression or thought, Peru's anti-terrorist decrees law also violate the right to freedom of expression, provided for in article 19.

12. Peru's anti-terrorist laws have contributed to the institutionalization of torture. The police are given the power to impose incommunicado detention and are required only to inform the judge about the measure. The high incidence of torture reported to have occurred during such police detention illustrates that incommunicado detention should be the exception, not the rule. The Human Rights Committee, like Human Rights Watch and the Special Rapporteur on the question of torture, determined that incommunicado detention is conducive to torture and that this practice should be avoided. We urge that in those exceptional circumstances when incommunicado detention is imposed, judges, rather than the police, determine the circumstances in which detainees are held incommunicado, and that they strictly supervise incommunicado detention to prevent ill-treatment.

13. Peru's implementation of a general amnesty law for human rights violations associated with the armed conflict is a direct violation of article 2. In its Final Observations on the Government's report, the Committee deplored Peru's failure to repeal its amnesty law, provide compensation to victims, and remove violators from government service, as the Committee had recommended in its Preliminary Observations.

14. Human Rights Watch urges the Commission to request permission for the Special Rapporteur on the question of torture to visit Peru once again. The Special Rapporteur produced special reports on Peru in 1994 and in 1996.

15. Human Rights Watch also urges that an invitation be extended to the Working Group on Arbitrary Detention to visit Peru. In 1996, President Alberto Fujimori acknowledged that the faceless courts had produced some injustices, and the Congress established an ad hoc commission to review cases and recommend individuals who should receive presidential pardons. A visit by the Working Group could provide support for the work of the ad hoc commission and the Working Group could advise the Government on further steps needed to avoid arbitrary detentions and to compensate victims.

16. Because of the systematic nature of Peru's breaches of its international obligations, which have been deplored by the Human Rights Committee and the Special Rapporteur on the question of torture, and because the Government has acknowledged that injustices have been created by the faceless court system, Human Rights Watch recommends that the Commission on Human Rights appoint an independent expert to advise Peru on bringing its justice system into compliance with international standards, and to issue a public report on Peru's progress.

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REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SEVENTH SESSION

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[6 March 1997]

Trafficking in women

1. Trafficking in women for the purposes of prostitution, marriage, domestic work and other forms of labour is a serious and worsening problem on every continent of the globe. The practice of trafficking, whereby women are coerced, abducted or lured into migrating to work in prostitution or other sectors, violates the human rights of the women concerned. It is, moreover, associated with a whole range of human rights abuses to which all migrant workers are particularly vulnerable, including debt bondage, forced labour, wage withholding, sexual and other physical abuse, illegal confinement, and deprivation of identity documents. Women may experience abuse on two related but separate levels: during the process of recruitment and travel, and in the terms and conditions of their working and living arrangements in the country of destination.

2. Trafficking victims are commonly denied access to legal remedies and redress for these severe human rights violations. Most trafficked persons are socially, linguistically, culturally, morally and legally isolated. Frequently, they are under the physical control of their employers, lacking any identity papers, and uncertain of their status and rights in the receiving country. Most are illegal migrants, subject to the constant threat of detention and deportation. Women trafficked into prostitution fear, in addition, criminal sanctions based on the illegal status of prostitution in many countries. All these factors contribute to an atmosphere that inhibits trafficked persons from speaking out to officials or seeking redress for abuses from State agencies.

3. The problem is compounded by the fact that, in practice, States generally treat trafficked persons simply as illegal migrants, detaining and summarily deporting them upon detection. Officials hardly ever investigate or record the testimony of victims in State custody as to the abuses they have suffered, or allow them an opportunity to file charges or bring civil suits against their employers and traffickers. Rarely are systematic efforts made to track down and prosecute the employers or traffickers. In many countries law enforcement officials and immigration agents are directly involved in traffic in women and girls and profit from this trade. For a price, officials aid and abet the passage of women, ignore abuses in their jurisdictions, and protect recruiters, traffickers, brothel owners and clients from arrest. Sometimes, police officers are the brothel owners' best clients. Efforts to control prostitution usually result in the discriminatory arrest and prosecution of the women and girls involved rather than of the clients and the predominantly male traffickers and brothel owners, in violation of the principle of equal protection under the law.

4. Trafficking in women is a fast-growing problem in the United States. The country has drastically inadequate laws to punish perpetrators and to provide the requisite rights protections and services for victims. Women from Asia, Central and South America, Eastern Europe and the Russian Federation are being trafficked into the United States in increasing numbers for work in clandestine brothels, domestic service, and garment "sweatshops". Urban centres such as New York, Los Angeles, and Dallas reportedly have numerous underground brothels and garment factories employing trafficked women. Sophisticated criminal networks are reputedly involved in trading women across United States borders, although employers also recruit women directly. The women are subjected to a range of abuses, including fraud, debt bondage, enforced isolation or confinement, and physical violence.

5. Upon detecting trafficked women in brothels and sweatshops across the United States, the police consistently detain them. The women are usually summarily deported, unless their testimony is required for criminal cases against their traffickers or employers. Where criminal suits are instituted against the latter, in many cases the charges do not reflect the civil and human rights violations committed against the women. Rather, the traffickers and brothel owners are typically prosecuted only for crimes such as hiring illegal aliens and conspiring to commit prostitution. This pattern is due, in part, to inadequate domestic criminal laws that fail fully to protect the rights of trafficked persons and others held in debt bondage and involuntary servitude.

6. The applicable United States constitutional and statutory proscriptions on "involuntary servitude" have been interpreted narrowly by the Supreme Court to prohibit only those slavery-like situations in which victims are forced to work through force of law or actual or threatened physical force. United States law does not punish slavery-like practices in which persons are forced into labour through the use of blackmail, fraud, deceit and psychological pressure, among other factors. As such, domestic law fails, in violation of the international obligations of the United States, to criminalize the form of debt bondage experienced by many trafficked women, which is enforced through fraudulent manipulation of the debts owed by the women to their traffickers and brothel owners. The women are indebted for travel fees, room and board, clothing and medicine; their wages are withheld by their brothel owners towards repayment of their debts. The brothel owners perpetuate the debts indefinitely through fraud, including by grossly underpaying the women, charging exorbitant interest rates, or by inflating prices for food and basic necessities, to keep the women working for them for little or no wages. Although excluded from the purview of United States law, this form of debt bondage is explicitly prohibited by the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, to which the United States is a party, and is covered also by the prohibition, in article 8 of the International Covenant on Civil and Political Rights, of "slavery and the slave-trade in all their forms".

7. Human Rights Watch has also investigated trafficking in women and girls from Myanmar to Thailand, from Nepal to India, and from Bangladesh to Pakistan. Debt bondage, among other serious abuses, is rampant in all these contexts. Most of the women and girls do not know the size of the debt assessed against them for travel and living expenses, are unable to monitor its repayment, and cannot precisely define when and how it will be repaid. In many cases, the women and girls are totally under their brothel owners' control, confined to the brothel premises for prolonged periods of time, and their personal liberties are completely curtailed.

8. The relevant Governments' primary response has been to detain and deport the women and girls as illegal migrants rather than to prosecute their abusers. The women and girls are routinely subjected to ill-treatment and denied due process rights during detention. In most cases, official corruption serves to ensure virtual impunity for the parties responsible for violating the human rights of trafficked women and girls.

9. Human Rights Watch urges the Commission on Human Rights:

(a) To call on Member States to reform their law and practice regarding trafficking to make them consistent with international human rights standards, including the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, which bans debt bondage and forced marriage; International Labour Organization Convention No. 29 concerning Forced Labour; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(b) To initiate a comprehensive examination of current manifestations, mechanics and trends of trafficking on the global level, and a corresponding assessment of existing international standards pertaining to trafficking, with a view to consolidating and updating them as well as clarifying any conceptual confusions;

(c) To conduct a systematic review of existing United Nations protections for migrants, refugees, prisoners and other groups, with a view to compiling a set of rules based on similar principles for the uniform treatment of trafficked persons to ensure protection of their rights and a remedy for the abuses they suffer;

(d) To call on Member States to actively investigate and prosecute all those engaged in trafficking in women and girls as well as associated abuses, including debt bondage, illegal confinement, rape and other sexual and physical abuse;

(e) To call on Member States to specifically train law enforcement personnel to identify trafficked persons and to protect their human rights;

(f) To ensure that both the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Rapporteur on violence against women, its causes and consequences, have adequate funds and institutional support to fulfil their mandates, including monitoring traffic in women and girls.

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RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[6 March 1997]

Bosnia and Herzegovina

1. Ethnic groups remaining in areas where they are not - or no longer - the majority have continued to suffer intimidation and harassment throughout Bosnia and Herzegovina since the signing of the Dayton agreement. The Dayton agreement emphasized the right of displaced persons and refugees to return to their homes and provided assurances by the parties that all persons would be protected under the law. Despite these promises, there has been little progress in the repatriation of minorities to majority areas. Those who have tried to return have often been turned away by violent mobs; housing belonging to minorities has been destroyed. There has been little focus, with the possible exception of Mostar, on the continuing and pervasive persecution of ethnic minorities and on the right to remain. The rule of law does not, in fact, exist in many areas of Bosnia and Herzegovina, and police and courts serve as instruments of the anti-minority policies of the entity or municipal governments. Ethnic minorities have little or no political representation, and the press continues in most instances to serve a nationalist agenda.

2. Absent the protection supposedly guaranteed under domestic law and under the Dayton agreement, and given the fact that the international Stabilization Force (SFOR), the International Police Task Force (IPTF) and other organizations claim to have no direct responsibility for the protection of those without civil rights, a "security gap" exists, where there is almost no one to whom minorities can turn for assistance. Even when courts find on behalf of a minority plaintiff, the decision is rarely enforced. Although a number of evicted individuals have had their housing rights reinstated, they have rarely been able to reoccupy dwellings without great difficulty, and even if allowed to move back in, they continue to face harassment. Civil and/or military police are often directly involved in evictions, or refuse to intervene. Local housing and refugee officials in some municipalities are part of organized crime rings which engage in the "selling" of property belonging to minorities. In the case of West Mostar, the HVO (Bosnian Croat) military police appear to be directly involved in these mafia-type activities. The IPTF established an Eviction Team in Mostar, but to date they have tended only to react after the eviction has already occurred. Evictions in other parts of the country are taking place virtually unchecked, and the numbers are mounting. The result of this is a steady decline in the number of ethnic minorities, and a diminished possibility for return of their members.

3. Intimidation and harassment of ethnic minorities have been prevalent in the following areas: throughout Republika Srpska, but especially in Doboj/Teslic, Banja Luka, Prnjavor, Prijedor and in the Zone of Separation (Jusici, Gajevi, Brcko, etc.); and in the Federation towns of West Mostar, Bugojno, Sanski Most, Zavidovici and, markedly, in Sarajevo.

4. Human Rights Watch calls on the Commission on Human Rights to insist on the removal of police officers and officials who have participated in human rights abuses or failed to intervene, based upon reports from IPTF and human rights monitors; it should also demand that the Republika Srpska sign and implement an agreement with IPTF for the restructuring of the police force; and that the Federation comply with vetting procedures established within its own restructuring agreement (especially regarding the dismissal of police involved in human rights violations or those suspected of war crimes).

Syrian Kurds

5. Kurds are the largest non-Arab ethnic minority in the Syrian Arab Republic, comprising about 8.5 to 10 per cent of the population of 13.8 million. By the Syrian Government's own count in July 1996, this includes 142,465 stateless Kurds: 67,465 ajanib ("foreigners") and 75,000 maktumeen ("unregistered"). These Kurds have no claim to a nationality other than Syrian, and cannot relocate to another country because Syrian authorities do not issue them passports.

6. These stateless Kurds are not permitted to own land, housing or businesses, and do not have the right to vote or run for public office. They cannot be employed in State jobs; cannot practise as doctors or engineers; and are denied admission to public hospitals. They may not legally marry Syrian citizens; if they do so, the marriages are not legally recognized. The

"foreigners" are issued special identity cards, but the maktoumeen are not. Maktumeen are also not permitted to study beyond the ninth grade. Children born to stateless Syrian Kurdish men "inherit" the status of their fathers. Due to the high birth rate of Kurds, the number of stateless persons will continue to grow unless the situation is remedied.

7. Human Rights Watch calls on the Commission on Human Rights to request that the Syrian Government take immediate steps to redress the stateless status of all Kurds who were born in the Syrian Arab Republic, and offer citizenship to Kurds with strong ties to Syria by reason of birth, marriage or long residence in the country and who are not otherwise entitled to citizenship in other countries, in order to bring Syria into compliance with articles 12, 24 and 26 of the International Covenant on Civil and Political Rights. The Commission should also urge the Syrian Government to ensure that every child born in the Syrian Arab Republic has the right to acquire a nationality and is not stateless; and that Kurdish residents of Syria, citizens and stateless alike, are protected against discrimination on grounds such as race, language, political or other opinion, and national or social origin.

Karenni refugees

8. Human Rights Watch wishes to call the attention of the Commission on Human Rights to the attacks on Karenni refugees from Myanmar in Thailand and to a military offensive which has led to the flight of some 20,000 new refugees since the beginning of 1997.

9. In early January, heavily armed troops of the Myanmar military government, the State Law and Order Restoration Council (SLORC), attacked a refugee camp housing 13,000 Karenni refugees from Myanmar in Thailand's Mae Hong Son district. Three refugees were killed and eight seriously wounded in the attack. Later the same month, a militia group allied with the SLORC launched three simultaneous attacks on refugee camps in Thailand housing a total of over 40,000 Karen refugees. Three people, including a Thai citizen, were killed and two camps were razed, leaving nearly 10,000 refugees homeless. Mortar shells were launched into another camp nearby in early February, though no one was hurt.

10. The attacks on refugee camps in Thailand are a clear violation by the Myanmar Government of common article 3 of the Geneva Conventions of 1949, to which Myanmar is a signatory, prohibiting violence against persons taking no active part in hostilities.

11. Given the violent nature of these attacks, and the vulnerability of the refugees, it is imperative that the Royal Thai Government move the affected refugee camps, which are perilously close to the border, to an area where they can be adequately protected. Despite not being a signatory to the Convention relating to the Status of Refugees, Thailand is responsible for the security of persons who have sought refuge in its territory.

12. In early February 1997, the Myanmar Government launched a new, and possibly final, offensive against the Karen National Union (KNU) after

ceasefire talks between the two broke down. As a result, some 20,000 new refugees have sought refuge in Thailand's Umphang and Kachanaburi districts. However, between 24 and 27 February some 3,000 refugees were either refused entry into Thailand or were pushed back into Myanmar by the Thai military, into areas where the military offensive was ongoing.

13. Thailand's admission of refugees in the Umphang area, and the provision of a temporary camp for the 15,000 in this area, is welcomed. However, Thailand is bound by customary international law to all those fleeing from Myanmar and must therefore respect the principle of non-refoulement.

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